

REMARKS

In response to the Official Office Action, a minor amendment has been made in the specification to correct a typographical error, and claim 12 has been amended to more distinctly claim Applicant's invention. Also, a declaration under § 131 is provided herewith to remove the O'Hearn patent (U.S. Patent No. 6,565,490) as a reference. Reconsideration of the application is therefore respectfully requested.

Independent claims 1 and 6 were rejected by the Examiner as being anticipated by O'Hearn. The attached declaration of L. Ron Batca and Roger Batca indicates that the claimed invention was made by the named inventors prior to the filing date of the O'Hearn patent. Accordingly, the O'Hearn patent is not prior art. Withdrawal of the rejection of claims 1 and 6 based on O'Hearn is therefore respectfully requested.

Claim 12 was rejected as being anticipated by the patent to Fitzpatrick (U.S. Patent No. 4,826,157). Claim 12 has been amended to indicate that the bench in the claimed invention is detached from the frame structure. The purpose of the brace in the claimed invention is to prevent the detached bench from sliding during certain exercises. It is noted that the bench in Fitzpatrick is attached to and supported by the frame and does not move during exercises. Therefore, it is believed that Fitzpatrick does not teach or suggest the invention of amended claim 12.

For the foregoing reasons, it is respectfully submitted that the present application is in condition for allowance and notice to such effect is respectfully requested.

Respectfully submitted,

COATS & BENNETT, P.L.L.C.

By:



David E. Bennett
Registration No. 32,194

P.O. Box 5
Raleigh, NC 27602
Telephone: (919) 854-1844

CERTIFICATE OF MAILING

I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING DEPOSITED WITH THE UNITED STATES POSTAL SERVICE, ON THE DATE INDICATED BELOW, AS FIRST CLASS MAIL, POSTAGE PREPAID, IN AN ENVELOPE ADDRESSED TO: **Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Signature: Kathleen Koppen

Name: Kathleen Koppen

Date: 3/8/04